

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5903 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

=====

KALIDAS @ KALIA, CHHITUBHAI @ CHHITA- @ CHHITIYABHAI VASAVA

Versus

DISTRICT MAGISTRATE

Appearance:

MS DR KACHHAVAH for Petitioner

GOVERNMENT PLEADER for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 06/11/96

ORAL JUDGEMENT

By way of this special civil application under

Article 226 of the Constitution of India the petitioner-detenu has challenged his order of detention. It is contended by the learned counsel for the petitioner that the documents supplied to him at pages nos.51 and 52 are not legible and as such the petitioner has not been able to make effective representation which has infringed his right guaranteed under Article 22(5) of the Constitution of India. The petitioner relies on the Division Bench decision of this Court reported in 1991 (2) GLR 753. The Division Bench has relied upon the decision of the Apex Court reported in 1989 Suppl. (2) SCC 155. The learned Government Counsel has fairly conceded that the documents at pages nos.51 and 52 are not legible. In view of the settled position of law, as stated above, the order of detention is illegal and cannot be sustained.

In the result, this special civil application is allowed. The order of detention dated 27.4.1996 is quashed and set aside. It is directed that the petitioner shall be released forthwith if not required in any other case. Rule is made absolute.

/mohd/